Writ Petition no.4592(S/S) of 2001

Uttaranchal Krishi Raksha Sewa Samiti
and another---------- Petitioners

versus

State of Uttaranchal and others---------- Respondents

Hon'ble M.M.Ghildiyal, J.

Heard Sri J.C.Pandey learned counsel for the petitioners and learned Standing Counsel.

The learned counsel for the parties have stated that the controversy raised in this petition has already been settled by this court in Writ Petition no.22626 of 1996 (old number)- Writ petition no.3763 (S/S) of 2001 (new number) Bagh Singh and others Versus State of U.P. and others and as such the writ petition is disposed of in terms of judgment passed by this court in Writ Petition no.22626 of 1996 (old number)- Writ petition no.3763 (S/S) of 2001 (new number) Bagh Singh and others Versus State of U.P. and others.

(M.M. Ghildiyal, J.)

July 22, 2003
MPS

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Urgency Application No. 7812 of 2005
Review Petition No. 10301 of 2003
In
Writ Petition No. 4592 (S/S) of 2001

1. Uttaranchal Krishi Raksha Seva Samiti, Uttaranchal, Kumaon Mandal, Nainital through its General Secretary, Sri Ranjeet Singh Adhikari

2. Sri Ranjeet Singh Adhikari, son of Sri Bishan Singh Adhikari, resident of Barielly Road, Talli, Haldwani, District – Nainital.

…….Petitioners.

V e r s u s.

1. State of Uttaranchal through the Secretary, Ministry of Agriculture, Uttaranchal, Dehradun.
2. Uppar Nideshak, Krishi Evam Sangrakshan, Uttaranchal, Pauri Camp, Dehradun.
3. Up Nideshak, Krishi Raksha, Kumaon Mandal, Camp Haldwani.
4. Krishi Raksha Adhikari, Nainital.
5. Krishi Raksha Adhikari, Almora.
6. Krishi Raksha Adhikari, Pithoragarh.
7. Krishi Raksha Adhikari, Udham Singh Nagar.

……..Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri J.C. Pandey, learned counsel for the petitioner and learned standing counsel for the State of Uttaranchal, on behalf of respondents/ Review Applicant.

This review petition has been filed by the learned standing counsel to review the judgement / order dated

22.07.2003 passed by this court. The writ petition no. 4592 (S/S) of 2001 was disposed of in terms of judgment and order passed in Writ Petition No. 3763 (SS) of 2001 (Old No. W.P.No. 22626 of 1996) (Bagh Singh and others Vs. State of U.P. and other), in view of the fact that learned counsel for both the parties have submitted that the controversy raised in the present writ petition is squarely covered by the judgement and order passed in the aforesaid case i.e. Writ Petition No. 3763 (SS) of 2001.

By the present Review Petition, the review applicant has submitted that petitioners, who are working as Field Attendant, are not entitled to get promotional pay scale, which is being paid to Plant Protection Mechanic. According to the Review Applicant, the Government Order dated 02.12.2000 specifically states that the cadre for whom there is no promotional avenue, the next higher pay scale shall be paid and not the promotional pay scale.

Learned standing counsel has further submitted that there is no provision for promotion on the post of Plant Protection Mechanic from the post of Field Attendant, therefore, promotional pay scale cannot be provided to the petitioners and as such, they are entitled for the next higher pay scale.

In para 6 of the writ petition, petitioners have categorically stated that the revised pay scale for the post of Plant Protection Mechanic is Rs. 3050 – 4590 and it is

the only post on which the Field Attendants are entitled to be promoted. Plant Protection Officer, Nainital has filed counter affidavit on behalf of respondents. The averment made in reply to the contents of para 6 of the writ petition is as under:

"That the contents of para 6 of the writ petition are not disputed."

Petitioners have also filed promotion orders by which some Filed Attendants have been promoted to the post of Plant Protection Mechanic. Respondents have not denied these promotional orders. Even the Additional Director, Agriculture vide order dated 20.02.1991 while sanctioning 16 posts of Plant Protection Mechanic has directed to promote the Field Attendants on the post of Plant Protection Mechanic on the basis of seniority.

Neither the petitioners nor the respondents were able to show Rules relating to the promotion on the post or Plant Protection Mechanic. However, in view of the promotion order passed by the Department itself granting the promotion from the post of Field Attendant to the post Plant Protection Mechanic, it is clear that the Field Attendants are entitled to get promotional pay scale as per Government Order dated 02.12.2000.

In view of the foregoing facts, review petition is rejected.

(M.M. Ghildiyal, J.)

September 28, 2005

SKSharma